

**LOCAL RULES OF THE COURT OF APPEAL
FOURTH APPELLATE DISTRICT
[Amended effective August 13, 2010]**

Rule 1. Writ Proceedings

(a) **[Request for immediate stay]** A request that an immediate stay be issued or other immediate relief be granted is to be served on the respondent and each real party in interest by (1) personal delivery or (2) an expeditious method consented to in advance by the party served. If the respondent or any real party in interest is not served personally or by an expeditious method consented to in advance by the party served, the court will not act on the request for five days, except to deny it summarily, absent a showing of good cause. The document cover must state conspicuously "STAY REQUESTED" or "IMMEDIATE RELIEF REQUESTED" or words of similar effect.

The court may issue a stay or other order necessary to preserve the status quo or the court's jurisdiction without opposition. However, a request for immediate relief, other than a stay or other order necessary to preserve the status quo or the court's jurisdiction, will not be granted unless the court has received an unsolicited opposition or, alternatively, has requested opposition.

(b) **[Preliminary opposition]** In an extraordinary proceeding involving a petition for writ of mandate, certiorari or prohibition pursuant to California Rules of Court, rules 8.485-8.493, the real party in interest need not file a preliminary opposition as provided in rule 8.487(a) unless requested to do so by the court. Except as provided in subdivision (a) of this rule, the court will not take any action on a writ petition, other than to summarily deny it, without first giving the real party in interest an opportunity to respond.

(Amended, eff. Aug. 13, 2010; adopted, eff. Oct. 29, 2004.)

Rule 2. Covers on Documents Filed With The Court

The court will not accept for filing any document that has a plastic or acetate cover or does not conform strictly to rules 8.144 and 8.204 of the California Rules of Court.

(Adopted, eff. Oct. 2, 1983. As amended, eff. Oct. 29, 2004; Jan. 1, 2007.)

Rule 3. Stipulation for Use of Original Superior Court File

Rule 8.128 of the California Rules of Court provides for the use of the original superior court file in lieu of the clerk's transcript on appeal in those civil cases where the parties so stipulate. In accordance with rule 8.128 of the California Rules of Court, the procedure therein is approved for use by the superior courts within this district unless the Court of Appeal orders otherwise in a particular case.

(Formerly Rule 10, adopted, eff. April 26, 1992. Renumbered Rule 3, eff. Oct. 29, 2004. As amended, eff. Jan. 1, 2007.)

Rule 4. Civil Settlement Conference Procedures (Division Two Only)

(a) **[Application of rule]** This rule is adopted pursuant to rule 8.248, California Rules of Court, and shall apply to all civil cases except appeals from proceedings under sections 300, 601, and 602 of the Welfare and Institutions Code, appeals from proceedings under sections 221 and 232 of the Civil Code, and appeals from original proceedings ancillary to a criminal prosecution.

(b) **[Notice of availability of conference]** Upon receipt of notice of the filing of a notice of appeal, the clerk of this court shall mail a copy of this rule to counsel for all parties.

(c) [General settlement conference procedure]

(1) The presiding justice may schedule a settlement conference and order the parties' attendance at any time during the pendency of an appeal.

(2) Written notice of the date and time of the settlement conference will be given by the court.

(3) Immediately upon accepting a case for the settlement conference procedure, all further proceedings, including the filing of briefs, shall be suspended until further order of the court. However, this rule shall not suspend preparation of the appellate record unless a specific order is issued directing suspension of record preparation.

(d) [Prebriefing settlement conference procedure and sanctions]

(1) A request for a settlement conference to be held prior to completion of briefing shall be served and filed within 30 days from the date of mailing of the notice specified in subdivision (b). Opposition to a

request for a settlement conference must be served and filed within 15 days after the request's filing date.

(2) If the court orders a settlement conference prior to the completion of briefing, the parties shall each serve and file an original and one copy of a settlement conference statement at least 15 days before the settlement conference. The parties may file by the same date a joint settlement conference statement in lieu of separate statements. Failure to timely serve and file a settlement conference statement complying with this rule may result in the imposition of sanctions including dismissal of the appeal. Every settlement conference statement shall contain the following:

(A) The trial court name and case title and number;

(B) The name of the judge who rendered the judgment or order appealed and the date of its entry;

(C) The date the notice of appeal was filed;

(D) The names, address, and telephone numbers of counsel for all parties to the appeal;

(E) A brief description of the judgment or order appealed;

(F) A concise statement of the case, including a brief procedural history and all facts material to consideration of the issues presented; and,

(G) The issues expected to be raised in the briefs.

(e) **[Postbriefing settlement conference procedure and sanctions]** After briefing is completed, the court may request the parties to provide information helpful to the court in deciding whether to order the parties to participate in a settlement conference. The parties shall complete all post-briefing settlement conference questionnaires and respond to all confidential settlement conference inquiries within 15 days of mailing by the clerk of the court. Failure to timely respond to a settlement conference inquiry or questionnaire may result in the imposition of sanctions including dismissal of the appeal.

(f) **[Settlement conference and sanctions]**

(1) The court shall maintain a list of attorneys who have developed expertise in specified areas of law, are generally respected in the legal community, and are willing to mediate settlement conferences at this court.

These attorneys shall be designated as settlement conference mediators and preside over every settlement conference unless otherwise ordered. A justice or assigned justice may be designated as a settlement conference mediator and preside over a settlement conference if so ordered.

(2) The mediator presiding over a settlement conference may in his or her discretion continue it from time to time to allow for further negotiation.

(3) Counsel for every party to the appeal and their clients shall attend any settlement conference. Failure to attend a settlement conference may result in the imposition of sanctions against any party or counsel, including dismissal.

(4) The settlement conference mediator may invite parties to the action who are not parties to the appeal, or any person who has an interest in the action, to attend the settlement conference if it appears to the mediator that their presence may facilitate settlement of the case. Any party to the appeal may serve and file a written request for the attendance of such a party or person at least 15 days before the settlement conference.

(5) Counsel shall confer with their clients in advance and be thoroughly familiar with the case and prepared to present their contentions in detail.

(6) The presiding justice, a justice designated by the presiding justice, or the settlement conference mediator may excuse a client's personal attendance upon request and a showing that hardship or unusual circumstances make the client's attendance impossible or impractical. If personal attendance is excused, counsel either shall have obtained full authority to agree to a settlement that binds the client or the client shall be available for consultation by telephone.

(7) Where settlement cannot be reached, partial settlement will be sought. Any settlement shall be reduced to writing and signed by counsel. After a complete settlement has been agreed to in writing, the parties shall promptly file a stipulation to dismiss the appeal on the ground that the case has been settled. The stipulation shall specify the allocation of costs on appeal and state whether the remittitur is to issue immediately.

(g) [Disqualification of settlement conference justice]

(1) A justice or assigned justice who participates in a settlement conference that does not result in complete settlement shall not thereafter participate in any way in the consideration or disposition of the case on its merits.

(2) A justice or assigned justice of the court will not be disqualified to participate in the consideration or disposition of a case on its merits because he or she has ruled on a request for a settlement conference, ordered that a settlement conference be held, signed orders granting relief from default for an act required by a party under this rule, extended or shortened any time period specified in this rule, or otherwise signed an order concerning a procedural aspect of the settlement conference process. Only mediating a settlement conference shall disqualify a justice from consideration or disposition of the case on its merits.

(Adopted, eff. Oct.13, 1992. As amended, eff. Oct. 29, 2004; Jan. 1, 2007.)

Rule 5. Filing by Facsimile

(a) Counsel may transmit the following documents to the Divisions of the Fourth Appellate District: (1) request for dismissal; (2) substitution/association; (3) change of address; (4) bankruptcy status letter; (5) request for oral argument; (6) certificate of interested entities or persons; (7) Attorney General/County Counsel full concession letters; (8) County Counsel *Sade C.* letter; (9) civil case information statement (Divisions One and Three only); (10) stipulation or request for extension of time; (11) service copy pursuant to California Rules of Court, rule 8.340; and (12) request for publication of an unpublished opinion under California Rules of Court, rule 8.1120. The filing party is responsible for verifying that documents are acceptable for fax filing. Other documents may be fax-filed only at the request of the court.

(b) The facsimile document must comply with all rules as would be required during traditional filing (i.e. proof of service, etc.). There is no fee for fax filing the documents listed above. The facsimile document must not exceed ten (10) pages in length. Each document must have a Facsimile Transmission Cover Sheet. *[A copy of the form follows these rules.]* The caption page must contain the phrase "By Facsimile" or "By Fax" immediately below the title of the document.

(c) The document that is filed by facsimile shall have the same legal effect as an original paper document. Signatures on fax-filed documents are considered

originals. The parties shall retain original signed documents should disputes arise requiring the court to verify original signatures.

(d) Service between the parties by facsimile is permitted by written agreement between the parties. This agreement should not be filed with the court, but may be requested by the court should a dispute arise regarding agreement to accept fax service.

(e) The court will not use facsimile transmission for service of court orders.

(f) The court will not send conformed copies of fax filings. Copies of any documents in the court file can be made by a copying service. In Divisions One and Three, a public copy machine is available in the clerk's office during public office hours.

(g) The standard confirmation option of a fax machine shall serve as confirmation of the transmittal of a document to the court. If the confirmation returns unsuccessful, the filing party should notify the court for the problem to be addressed. Counsel may verify the filing of the document through the court's web site. If the fax filing is not filed with the court because of error in transmission or clerical error, the party may make a motion to the court for an order filing the document nunc pro tunc.

(h) The court's fax filing machine shall be available 24 hours a day, although filings received after public office hours, on weekends or court holidays, shall be deemed filed on the next court day. The fax filing numbers are: Division One -- (619) 645-2495; Division Two -- (951) 248-0235; and Division Three -- (714) 567-6128.

(Adopted, eff. Nov. 9, 2007.)

Rule 6. Repealed, eff. Sept. 9, 1996.

Rule 7. Repealed, eff. Dec. 1, 2003

Rule 8. Repealed, eff. Oct. 29, 2004

Rule 9. Repealed, eff. March 10, 2003

Rule 10. Renumbered Rule 3, eff. Oct. 29, 2004

